65-1695 Continuous quality improvement program; purpose; confidential peer review documents; rules and regulations. (a) No later than July 1, 2009, each pharmacy shall establish a continuous quality improvement (CQI) program. The purpose of the CQI program shall be to assess errors that occur in the pharmacy in dispensing or furnishing prescription medications so that the pharmacy shall take appropriate action to prevent a recurrence.

(b) Reports, memoranda, proceedings, findings, and other records generated as part of the pharmacy CQI program shall be considered confidential and privileged peer review documents and not subject to discovery, subpoena, or other means of legal compulsion for their release to any person or entity and shall not be admissible in any civil or administrative action other than an administrative proceeding initiated by the board of pharmacy. Nothing in this section shall be construed to prohibit a patient from accessing such patient's own prescription records. Nothing in this section shall effect the discoverability of any record not solely generated for or maintained as part of the pharmacy's CQI program.

(c) No person in attendance at any meeting conducted as part of the CQI program shall be compelled to testify in any civil, criminal or administrative action other than an administrative proceeding initiated by the board of pharmacy as to any discussions or decisions which occurred as part of the CQI program.

(d) All reports and records generated as part of the pharmacy's CQI program shall be available for inspection by the board of pharmacy within a time period established by the board in rules and regulations.

(e) In conducting a disciplinary proceeding in which omission of any matters that are confidential and privileged under subsection (b) are proposed, the board of pharmacy shall hold a hearing in closed session when any report, record or testimony is disclosed. Unless otherwise provided by law, the board of pharmacy in conducting a disciplinary proceeding may close only that portion of the hearing in which disclosure of such privileged matters are proposed. In closing a portion of a hearing as provided in this subsection, the presiding officer may exclude any person from the hearing except members of the board, the licensee, the licensee's attorney, the agency's attorney, the witness, the court reporter and appropriate staff support for either counsel.

The Board of pharmacy shall make the portions of the administrative record in which such privileged matters are disclosed subject to a protective order prohibiting further disclosure. Such privileged matters shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person or entity. No person in attendance at a closed portion of a disciplinary proceeding shall be required to testify at a subsequent, civil, criminal, or administrative hearing regarding the privileged matters, nor shall such testimony be admitted into evidence in any subsequent civil, criminal, or administrative hearing.

The board of pharmacy may review any matters that are confidential and privileged under subsection (b) in conducting a disciplinary proceeding but must prove its findings with independently obtained testimony or records which shall be presented as part of the disciplinary proceeding in an open meeting of the board of pharmacy. Offering such testimony or records in an open public hearing shall not be deemed a waiver of the peer review privilege relating to any peer review testimony, record, or report.

(f) The board may establish by rules and regulations requirements regarding the function and record keeping of a pharmacy CQI program.
(g) This section shall be part of and supplemental to the Pharmacy Act of the state of Kansas.
History: L. 2008, ch. 104, § 16; July 1.

68-19-1. Minimum program requirements. Each pharmacy's continuous quality improvement program shall meet the following minimum requirements:

(a) Meet at least once each quarter of each calendar year;

(b) have the pharmacy's pharmacist in charge in attendance at each meeting; and

(c) perform the following during each meeting:

(a) Review all incident reports generated for each reportable event associated with that pharmacy since the last quarterly meeting;

(2) for each incident report reviewed, establish the steps taken or to be taken to prevent a recurrence of the incident; and

(3) create a report of the meeting, including at least the following information:

(A) A list of persons in attendance;

(B) a list of the incident reports reviewed; and

(C) a description of the steps taken or to be taken to prevent recurrence of each incident reviewed. (Authorized by and implementing L. 2008, ch. 104, §16; effective April 10, 2009.)